

AMENDED IN ASSEMBLY SEPTEMBER 11, 2015

AMENDED IN ASSEMBLY AUGUST 25, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 12, 2015

AMENDED IN SENATE APRIL 29, 2015

AMENDED IN SENATE APRIL 16, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 377

Introduced by Senator Beall

February 24, 2015

An act to ~~amend Sections 12206, 17058, and 23610.5 of~~ *add Sections 12206.1, 17058.1, and 23610.7 to* the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 377, as amended, Beall. Income taxes: insurance taxes: credits: low-income housing: sale of credit.

Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the allocation of state insurance, income, and corporation tax credit amounts among low-income housing projects based on federal law.

This bill, beginning on or after January 1, 2016, *and before January 1, 2026*, would allow a taxpayer that is allowed a low-income housing tax credit to elect to sell all or a portion of that credit to one or more unrelated parties, as described, for each taxable year in which the credit

is allowed for not less than 80% of the amount of the credit to be sold, and would provide for the one-time resale of that credit, as provided. The bill would require the California Tax Credit Allocation Committee to enter into an agreement with the Franchise Tax Board to pay any costs incurred by the Franchise Tax Board in administering these provisions. *The bill would require the California Tax Credit Allocation Committee to report to the Legislature on the total amounts of credits allowed to, and sold by, taxpayers pursuant to these provisions, as specified.*

Existing law, in the case of a partnership, requires the allocation of the credits, on or after January 1, 2009, and before January 1, 2016, to partners based upon the partnership agreement, regardless of how the federal low-income housing tax credit, as provided, is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, as specified.

~~This bill would eliminate the January 1, 2016, date.~~ *extend these provisions indefinitely.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12206.1 is added to the Revenue and
2 Taxation Code, to read:
3 12206.1. (a) (1) *For a project that receives a preliminary*
4 *reservation of the state low-income housing tax credit, allowed*
5 *pursuant to subdivision (a) of Section 12206, on or after January*
6 *1, 2016, the credit shall be allocated to the partners of a*
7 *partnership owning the project in accordance with the partnership*
8 *agreement, regardless of how the federal low-income housing tax*
9 *credit with respect to the project is allocated to the partners, or*
10 *whether the allocation of the credit under the terms of the*
11 *agreement has substantial economic effect, within the meaning of*
12 *Section 704(b) of the Internal Revenue Code, relating to*
13 *determination of distributive share.*
14 (2) *This subdivision shall not apply to a project that receives a*
15 *preliminary reservation of state low-income housing tax credits*
16 *under the set-aside described in subdivision (c) of Section 50199.20*

1 of the Health and Safety Code unless the project also receives a
2 preliminary reservation of federal low-income housing tax credits.

3 (b) (1) For a project that receives a preliminary reservation
4 under Section 12206 beginning on or after January 1, 2016, and
5 before January 1, 2026, a taxpayer may make an irrevocable
6 election in its application to the California Tax Credit Allocation
7 Committee to sell all or any portion of any credit allowed under
8 Section 12206 to one or more unrelated parties for each taxable
9 year in which the credit is allowed subject to both of the following
10 conditions:

11 (A) The credit is sold for consideration that is not less than 80
12 percent of the amount of the credit.

13 (B) The unrelated party or parties purchasing any or all of the
14 credit pursuant to this subdivision is a taxpayer allowed the credit
15 under Section 12206 for the taxable year of the purchase or any
16 prior taxable year or is a taxpayer allowed the federal credit under
17 Section 42 of the Internal Revenue Code, relating to low-income
18 housing credit, for the taxable year of the purchase or any prior
19 taxable year in connection with any project located in this state.
20 For purposes of this subparagraph, "taxpayer allowed the credit
21 under Section 12206" means a taxpayer that is allowed the credit
22 under Section 12206 without regard to the purchase of a credit
23 pursuant to this subdivision.

24 (2) (A) The taxpayer that originally received the credit shall
25 report to the California Tax Credit Allocation Committee within
26 10 days of the sale of the credit, in the form and manner specified
27 by the California Tax Credit Allocation Committee, all required
28 information regarding the purchase and sale of the credit,
29 including the social security or other taxpayer identification
30 number of the unrelated party to whom the credit has been sold,
31 the face amount of the credit sold, and the amount of consideration
32 received by the taxpayer for the sale of the credit.

33 (B) The California Tax Credit Allocation Committee shall
34 provide an annual listing to the Franchise Tax Board, in a form
35 and manner agreed upon by the California Tax Credit Allocation
36 Committee and the Franchise Tax Board, of the taxpayers that
37 have sold or purchased a credit pursuant to this subdivision.

38 (3) (A) A credit may be sold pursuant to this subdivision to more
39 than one unrelated party.

1 (B) (i) Except as provided in clause (ii), a credit shall not be
2 resold by the unrelated party to another taxpayer or other party.

3 (ii) All or any portion of any credit allowed under Section 12206
4 may be resold once by an original purchaser to one or more
5 unrelated parties, subject to all of the requirements of this
6 subdivision.

7 (4) Notwithstanding any other law, the taxpayer that originally
8 received the credit that is sold pursuant to paragraph (1) shall
9 remain solely liable for all obligations and liabilities imposed on
10 the taxpayer by Section 12206 with respect to the credit, none of
11 which shall apply to any party to whom the credit has been sold
12 or subsequently transferred. Parties who purchase credits pursuant
13 to paragraph (1) shall be entitled to utilize the purchased credits
14 in the same manner in which the taxpayer that originally received
15 the credit could utilize them.

16 (5) A taxpayer shall not sell a credit allowed by Section 12206
17 if the taxpayer was allowed the credit on any tax return of the
18 taxpayer.

19 (6) Notwithstanding paragraph (1), the taxpayer, with the
20 approval of the Executive Director of the California Tax Credit
21 Allocation Committee, may rescind the election to sell all or any
22 portion of the credit allowed under Section 12206 if the
23 consideration for the credit falls below 80 percent of the amount
24 of the credit after the California Tax Credit Allocation Committee
25 reservation.

26 (c) The California Tax Credit Allocation Committee may
27 prescribe rules, guidelines, or procedures necessary or appropriate
28 to carry out the purposes of this section, including any guidelines
29 regarding the allocation of the credit allowed under this section.
30 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
31 3 of Title 2 of the Government Code shall not apply to any rule,
32 guideline, or procedure prescribed by the California Tax Credit
33 Allocation Committee pursuant to this section.

34 SEC. 2. Section 17058.1 is added to the Revenue and Taxation
35 Code, to read:

36 17058.1. (a) (1) For a project that receives a preliminary
37 reservation of the state low-income housing tax credit, allowed
38 pursuant to subdivision (a) of Section 17058, on or after January
39 1, 2016, the credit shall be allocated to the partners of a
40 partnership owning the project in accordance with the partnership

1 agreement, regardless of how the federal low-income housing tax
2 credit with respect to the project is allocated to the partners, or
3 whether the allocation of the credit under the terms of the
4 agreement has substantial economic effect, within the meaning of
5 Section 704(b) of the Internal Revenue Code, relating to
6 determination of distributive share.

7 (2) To the extent the allocation of the credit to a partner under
8 Section 17058 lacks substantial economic effect, any loss or
9 deduction otherwise allowable under this part that is attributable
10 to the sale or other disposition of that partner's partnership interest
11 made prior to the expiration of the federal credit shall not be
12 allowed in the taxable year in which the sale or other disposition
13 occurs, but shall instead be deferred until and treated as if it
14 occurred in the first taxable year immediately following the taxable
15 year in which the federal credit period expires for the project
16 described in paragraph (1).

17 (3) This subdivision shall not apply to a project that receives a
18 preliminary reservation of state low-income housing tax credits
19 under the set-aside described in subdivision (c) of Section 50199.20
20 of the Health and Safety Code unless the project also receives a
21 preliminary reservation of federal low-income housing tax credits.

22 (b) (1) For a project that receives a preliminary reservation
23 under Section 17058 beginning on or after January 1, 2016, and
24 before January 1, 2026, a taxpayer may make an irrevocable
25 election in its application to the California Tax Credit Allocation
26 Committee to sell all or any portion of any credit allowed under
27 Section 17058 to one or more unrelated parties for each taxable
28 year in which the credit is allowed subject to both of the following
29 conditions:

30 (A) The credit is sold for consideration that is not less than 80
31 percent of the amount of the credit.

32 (B) The unrelated party or parties purchasing any or all of the
33 credit pursuant to this subdivision is a taxpayer allowed the credit
34 under Section 17058 for the taxable year of the purchase or any
35 prior taxable year or is a taxpayer allowed the federal credit under
36 Section 42 of the Internal Revenue Code, relating to low-income
37 housing credit, for the taxable year of the purchase or any prior
38 taxable year in connection with any project located in this state.
39 For purposes of this subparagraph, "taxpayer allowed the credit
40 under Section 17058" means a taxpayer that is allowed the credit

1 under Section 17058 without regard to the purchase of a credit
2 pursuant to this subdivision.

3 (2) (A) The taxpayer that originally received the credit shall
4 report to the California Tax Credit Allocation Committee within
5 10 days of the sale of the credit, in the form and manner specified
6 by the California Tax Credit Allocation Committee, all required
7 information regarding the purchase and sale of the credit,
8 including the social security or other taxpayer identification
9 number of the unrelated party to whom the credit has been sold,
10 the face amount of the credit sold, and the amount of consideration
11 received by the taxpayer for the sale of the credit.

12 (B) The California Tax Credit Allocation Committee shall
13 provide an annual listing to the Franchise Tax Board, in a form
14 and manner agreed upon by the California Tax Credit Allocation
15 Committee and the Franchise Tax Board, of the taxpayers that
16 have sold or purchased a credit pursuant to this subdivision.

17 (3) (A) A credit may be sold pursuant to this subdivision to
18 more than one unrelated party.

19 (B) (i) Except as provided in clause (ii), a credit shall not be
20 resold by the unrelated party to another taxpayer or other party.

21 (ii) All or any portion of any credit allowed under Section 17058
22 may be resold once by an original purchaser to one or more
23 unrelated parties, subject to all of the requirements of this
24 subdivision.

25 (4) Notwithstanding any other law, the taxpayer that originally
26 received the credit that is sold pursuant to paragraph (1) shall
27 remain solely liable for all obligations and liabilities imposed on
28 the taxpayer by Section 17058 with respect to the credit, none of
29 which shall apply to any party to whom the credit has been sold
30 or subsequently transferred. Parties who purchase credits pursuant
31 to paragraph (1) shall be entitled to utilize the purchased credits
32 in the same manner in which the taxpayer that originally received
33 the credit could utilize them.

34 (5) A taxpayer shall not sell a credit allowed by Section 17058
35 if the taxpayer was allowed the credit on any tax return of the
36 taxpayer.

37 (6) Notwithstanding paragraph (1), the taxpayer, with the
38 approval of the Executive Director of the California Tax Credit
39 Allocation Committee, may rescind the election to sell all or any
40 portion of the credit allowed under Section 17058 if the

1 *consideration for the credit falls below 80 percent of the amount*
2 *of the credit after the California Tax Credit Allocation Committee*
3 *reservation.*

4 *(c) The California Tax Credit Allocation Committee may*
5 *prescribe rules, guidelines, or procedures necessary or appropriate*
6 *to carry out the purposes of this section, including any guidelines*
7 *regarding the allocation of the credit allowed under this section.*
8 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
9 *3 of Title 2 of the Government Code shall not apply to any rule,*
10 *guideline, or procedure prescribed by the California Tax Credit*
11 *Allocation Committee pursuant to this section.*

12 *SEC. 3. Section 23610.7 is added to the Revenue and Taxation*
13 *Code, to read:*

14 *23610.7. (a) (1) For a project that receives a preliminary*
15 *reservation of the state low-income housing tax credit, allowed*
16 *pursuant to subdivision (a) of Section 23610.5, on or after January*
17 *1, 2016, the credit shall be allocated to the partners of a*
18 *partnership owning the project in accordance with the partnership*
19 *agreement, regardless of how the federal low-income housing tax*
20 *credit with respect to the project is allocated to the partners, or*
21 *whether the allocation of the credit under the terms of the*
22 *agreement has substantial economic effect, within the meaning of*
23 *Section 704(b) of the Internal Revenue Code, relating to*
24 *determination of distributive share.*

25 *(2) To the extent the allocation of the credit to a partner under*
26 *Section 23610.5 lacks substantial economic effect, any loss or*
27 *deduction otherwise allowable under this part that is attributable*
28 *to the sale or other disposition of that partner's partnership interest*
29 *made prior to the expiration of the federal credit shall not be*
30 *allowed in the taxable year in which the sale or other disposition*
31 *occurs, but shall instead be deferred until and treated as if it*
32 *occurred in the first taxable year immediately following the taxable*
33 *year in which the federal credit period expires for the project*
34 *described in paragraph (1).*

35 *(3) This subdivision shall not apply to a project that receives a*
36 *preliminary reservation of state low-income housing tax credits*
37 *under the set-aside described in subdivision (c) of Section 50199.20*
38 *of the Health and Safety Code unless the project also receives a*
39 *preliminary reservation of federal low-income housing tax credits.*

(b) (1) For a project that receives a preliminary reservation under Section 23610.5 beginning on or after January 1, 2016, and before January 1, 2026, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under Section 23610.5 to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) (i) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under Section 23610.5 for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state.

(ii) For purposes of this subparagraph, “taxpayer allowed the credit under Section 23610.5” means a taxpayer that is allowed the credit under Section 23610.5 without regard to any of the following:

(I) The purchase of a credit under Section 23610.5 pursuant to this subdivision.

(II) The assignment of a credit under Section 23610.5 pursuant to subdivision (q) of Section 23610.5.

(III) The assignment of a credit under Section 23610.5 pursuant to Section 23363.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation

1 *Committee and the Franchise Tax Board, of the taxpayers that*
2 *have sold or purchased a credit pursuant to this subdivision.*

3 (3) (A) *A credit may be sold pursuant to this subdivision to more*
4 *than one unrelated party.*

5 (B) (i) *Except as provided in clause (ii), a credit shall not be*
6 *resold by the unrelated party to another taxpayer or other party.*

7 (ii) *All or any portion of any credit allowed under Section*
8 *23610.5 may be resold once by an original purchaser to one or*
9 *more unrelated parties, subject to all of the requirements of this*
10 *subdivision.*

11 (4) *Notwithstanding any other law, the taxpayer that originally*
12 *received the credit that is sold pursuant to paragraph (1) shall*
13 *remain solely liable for all obligations and liabilities imposed on*
14 *the taxpayer by Section 23610.5 with respect to the credit, none*
15 *of which shall apply to any party to whom the credit has been sold*
16 *or subsequently transferred. Parties who purchase credits pursuant*
17 *to paragraph (1) shall be entitled to utilize the purchased credits*
18 *in the same manner in which the taxpayer that originally received*
19 *the credit could utilize them.*

20 (5) *A taxpayer shall not sell a credit allowed by Section 23610.5*
21 *if the taxpayer was allowed the credit on any tax return of the*
22 *taxpayer.*

23 (6) *Notwithstanding paragraph (1), the taxpayer, with the*
24 *approval of the Executive Director of the California Tax Credit*
25 *Allocation Committee, may rescind the election to sell all or any*
26 *portion of the credit allowed under Section 23610.5 if the*
27 *consideration for the credit falls below 80 percent of the amount*
28 *of the credit after the California Tax Credit Allocation Committee*
29 *reservation.*

30 (c) *The California Tax Credit Allocation Committee may*
31 *prescribe rules, guidelines, or procedures necessary or appropriate*
32 *to carry out the purposes of this section, including any guidelines*
33 *regarding the allocation of the credit allowed under this section.*
34 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
35 *3 of Title 2 of the Government Code shall not apply to any rule,*
36 *guideline, or procedure prescribed by the California Tax Credit*
37 *Allocation Committee pursuant to this section.*

38 SEC. 4. (a) *The California Tax Credit Allocation Committee*
39 *shall enter into an agreement with the Franchise Tax Board to*
40 *pay any costs incurred by the Franchise Tax Board in the*

1 administration of Sections 12206.1, 17058.1, and 23610.7 of the
2 Revenue and Taxation Code as added by this act.

3 (b) (1) The California Tax Credit Allocation Committee shall
4 report to the Legislature as follows:

5 (A) On or before January 1, 2021, for calendar years 2016 to
6 2019, inclusive, the total amounts of credits allowed to, and sold
7 by, taxpayers pursuant to Sections 12206.1, 17058.1, and 23610.7
8 of the Revenue and Taxation Code, including a separate accounting
9 of credits sold to original purchasers by the original investors and
10 credits resold by the original purchasers to secondary purchasers.

11 (B) On or before January 1, 2025, for calendar years 2016 to
12 2023, inclusive, the total of credits allowed to, and sold by,
13 taxpayers pursuant to Sections 12206.1, 17058.1, and 23610.7 of
14 the Revenue and Taxation Code, including a separate accounting
15 of credits sold to original purchasers by the original investors and
16 credits resold by the original purchasers to secondary purchasers.

17 (2) The reports submitted pursuant to this subdivision shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 SEC. 5. This act provides for a tax levy within the meaning of
21 Article IV of the Constitution and shall go into immediate effect.

22 SECTION 1. Section 12206 of the Revenue and Taxation Code
23 is amended to read:

24 ~~12206. (a) (1) There shall be allowed as a credit against the~~
25 ~~“tax,” as described by Section 12201, a state low-income housing~~
26 ~~tax credit in an amount equal to the amount determined in~~
27 ~~subdivision (c), computed in accordance with Section 42 of the~~
28 ~~Internal Revenue Code, relating to low-income housing credit,~~
29 ~~except as otherwise provided in this section.~~

30 ~~(2) “Taxpayer,” for purposes of this section, means the sole~~
31 ~~owner in the case of a “C” corporation, the partners in the case of~~
32 ~~a partnership, and the shareholders in the case of an “S”~~
33 ~~corporation.~~

34 ~~(3) “Housing sponsor,” for purposes of this section, means the~~
35 ~~sole owner in the case of a “C” corporation, the partnership in the~~
36 ~~case of a partnership, and the “S” corporation in the case of an “S”~~
37 ~~corporation.~~

38 ~~(b) (1) The amount of the credit allocated to any housing~~
39 ~~sponsor shall be authorized by the California Tax Credit Allocation~~
40 ~~Committee, or any successor thereof, based on a project’s need~~

1 for the credit for economic feasibility in accordance with the
2 requirements of this section.

3 (A) Except for projects to provide farmworker housing, as
4 defined in subdivision (h) of Section 50199.7 of the Health and
5 Safety Code, that are allocated credits solely under the set-aside
6 described in subdivision (c) of Section 50199.20 of the Health and
7 Safety Code, the low-income housing project shall be located in
8 California and shall meet either of the following requirements:

9 (i) The project's housing sponsor has been allocated by the
10 California Tax Credit Allocation Committee a credit for federal
11 income tax purposes under Section 42 of the Internal Revenue
12 Code, relating to low-income housing credit.

13 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
14 Internal Revenue Code, relating to special rule where 50 percent
15 or more of building is financed with tax-exempt bonds subject to
16 volume cap.

17 (B) The California Tax Credit Allocation Committee shall not
18 require fees for the credit under this section in addition to those
19 fees required for applications for the tax credit pursuant to Section
20 42 of the Internal Revenue Code, relating to low-income housing
21 credit. The committee may require a fee if the application for the
22 credit under this section is submitted in a calendar year after the
23 year the application is submitted for the federal tax credit.

24 (C) (i) For a project that receives a preliminary reservation of
25 the state low-income housing tax credit, allowed pursuant to
26 subdivision (a), on or after January 1, 2009, the credit shall be
27 allocated to the partners of a partnership owning the project in
28 accordance with the partnership agreement, regardless of how the
29 federal low-income housing tax credit with respect to the project
30 is allocated to the partners, or whether the allocation of the credit
31 under the terms of the agreement has substantial economic effect,
32 within the meaning of Section 704(b) of the Internal Revenue
33 Code, relating to determination of distributive share.

34 (ii) This subparagraph shall not apply to a project that receives
35 a preliminary reservation of state low-income housing tax credits
36 under the set-aside described in subdivision (c) of Section 50199.20
37 of the Health and Safety Code unless the project also receives a
38 preliminary reservation of federal low-income housing tax credits.

1 ~~(2) (A) The California Tax Credit Allocation Committee shall~~
2 ~~certify to the housing sponsor the amount of tax credit under this~~
3 ~~section allocated to the housing sponsor for each credit period.~~

4 ~~(B) In the case of a partnership or an “S” corporation, the~~
5 ~~housing sponsor shall provide a copy of the California Tax Credit~~
6 ~~Allocation Committee certification to the taxpayer.~~

7 ~~(C) The taxpayer shall attach a copy of the certification to any~~
8 ~~return upon which a tax credit is claimed under this section.~~

9 ~~(D) In the case of a failure to attach a copy of the certification~~
10 ~~for the year to the return in which a tax credit is claimed under this~~
11 ~~section, no credit under this section shall be allowed for that year~~
12 ~~until a copy of that certification is provided.~~

13 ~~(E) All elections made by the taxpayer pursuant to Section 42~~
14 ~~of the Internal Revenue Code, relating to low-income housing~~
15 ~~credit, shall apply to this section.~~

16 ~~(F) (i) Except as described in clause (ii), for buildings located~~
17 ~~in designated difficult development areas (DDAs) or qualified~~
18 ~~census tracts (QCTs), as defined in Section 42(d)(5)(B) of the~~
19 ~~Internal Revenue Code, relating to increase in credit for buildings~~
20 ~~in high-cost areas, credits may be allocated under this section in~~
21 ~~the amounts prescribed in subdivision (c), provided that the amount~~
22 ~~of credit allocated under Section 42 of the Internal Revenue Code,~~
23 ~~relating to low-income housing credit, is computed on 100 percent~~
24 ~~of the qualified basis of the building.~~

25 ~~(ii) Notwithstanding clause (i), the California Tax Credit~~
26 ~~Allocation Committee may allocate the credit for buildings located~~
27 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~
28 ~~occupants be special needs households, as defined in the California~~
29 ~~Code of Regulations by the California Tax Credit Allocation~~
30 ~~Committee, even if the taxpayer receives federal credits pursuant~~
31 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, relating to~~
32 ~~increase in credit for buildings in high-cost areas, provided that~~
33 ~~the credit allowed under this section shall not exceed 30 percent~~
34 ~~of the eligible basis of the building.~~

35 ~~(G) (i) The California Tax Credit Allocation Committee may~~
36 ~~allocate a credit under this section in exchange for a credit allocated~~
37 ~~pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,~~
38 ~~relating to increase in credit for buildings in high-cost areas, in~~
39 ~~amounts up to 30 percent of the eligible basis of a building if the~~
40 ~~credits allowed under Section 42 of the Internal Revenue Code,~~

1 relating to low-income housing credit, are reduced by an equivalent
2 amount:

3 (ii) ~~An equivalent amount shall be determined by the California~~
4 ~~Tax Credit Allocation Committee based upon the relative amount~~
5 ~~required to produce an equivalent state tax credit to the taxpayer.~~

6 (e) ~~Section 42(b) of the Internal Revenue Code, relating to~~
7 ~~applicable percentage, shall be modified as follows:~~

8 (1) ~~In the case of any qualified low-income building that receives~~
9 ~~an allocation after 1989 and is a new building not federally~~
10 ~~subsidized, the term “applicable percentage” means the following:~~

11 (A) ~~For each of the first three years, the percentage prescribed~~
12 ~~by the Secretary of the Treasury for new buildings that are not~~
13 ~~federally subsidized for the taxable year, determined in accordance~~
14 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
15 ~~Code, relating to temporary minimum credit rate for nonfederally~~
16 ~~subsidized new buildings, in lieu of the percentage prescribed in~~
17 ~~Section 42(b)(1)(A) of the Internal Revenue Code.~~

18 (B) ~~For the fourth year, the difference between 30 percent and~~
19 ~~the sum of the applicable percentages for the first three years.~~

20 (2) ~~In the case of any qualified low-income building that receives~~
21 ~~an allocation after 1989 and that is a new building that is federally~~
22 ~~subsidized or that is an existing building that is “at risk of~~
23 ~~conversion,” the term “applicable percentage” means the following:~~

24 (A) ~~For each of the first three years, the percentage prescribed~~
25 ~~by the Secretary of the Treasury for new buildings that are federally~~
26 ~~subsidized for the taxable year.~~

27 (B) ~~For the fourth year, the difference between 13 percent and~~
28 ~~the sum of the applicable percentages for the first three years.~~

29 (3) ~~For purposes of this section, the term “at risk of conversion,”~~
30 ~~with respect to an existing property means a property that satisfies~~
31 ~~all of the following criteria:~~

32 (A) ~~The property is a multifamily rental housing development~~
33 ~~in which at least 50 percent of the units receive governmental~~
34 ~~assistance pursuant to any of the following:~~

35 (i) ~~New construction, substantial rehabilitation, moderate~~
36 ~~rehabilitation, property disposition, and loan management set-aside~~
37 ~~programs, or any other program providing project-based assistance~~
38 ~~pursuant to Section 8 of the United States Housing Act of 1937,~~
39 ~~Section 1437f of Title 42 of the United States Code, as amended.~~

~~(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715(d)(3) and (5) of Title 12 of the United States Code.~~

~~(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.~~

~~(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.~~

~~(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.~~

~~(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.~~

~~(B) The restrictions on rent and income levels will terminate or the federally insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.~~

~~(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.~~

~~(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code relating to rehabilitation expenditures treated as a separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.~~

~~(d) The term “qualified low-income housing project” as defined in Section 42(e)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:~~

~~(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves; that, at the election of the taxpayer, is equal to:~~

~~(A) An amount not to exceed 8 percent of the lesser of:~~

~~(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.~~

~~(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.~~

1 ~~(B) The amount of the cashflow from those units in the building~~
2 ~~that are not low-income units. For purposes of computing cashflow~~
3 ~~under this subparagraph, operating costs shall be allocated to the~~
4 ~~low-income units using the “floor space fraction,” as defined in~~
5 ~~Section 42 of the Internal Revenue Code, relating to low-income~~
6 ~~housing credit.~~

7 ~~(C) Any amount allowed to be distributed under subparagraph~~
8 ~~(A) that is not available for distribution during the first five years~~
9 ~~of the compliance period may be accumulated and distributed any~~
10 ~~time during the first 15 years of the compliance period but not~~
11 ~~thereafter.~~

12 ~~(2) The limitation on return shall apply in the aggregate to the~~
13 ~~partners if the housing sponsor is a partnership and in the aggregate~~
14 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

15 ~~(3) The housing sponsor shall apply any cash available for~~
16 ~~distribution in excess of the amount eligible to be distributed under~~
17 ~~paragraph (1) to reduce the rent on rent-restricted units or to~~
18 ~~increase the number of rent-restricted units subject to the tests of~~
19 ~~Section 42(g)(1) of the Internal Revenue Code, relating to in~~
20 ~~general.~~

21 ~~(e) The provisions of Section 42(f) of the Internal Revenue~~
22 ~~Code, relating to definition and special rules relating to credit~~
23 ~~period, shall be modified as follows:~~

24 ~~(1) The term “credit period” as defined in Section 42(f)(1) of~~
25 ~~the Internal Revenue Code, relating to credit period defined, is~~
26 ~~modified by substituting “four taxable years” for “10 taxable~~
27 ~~years.”~~

28 ~~(2) The special rule for the first taxable year of the credit period~~
29 ~~under Section 42(f)(2) of the Internal Revenue Code, relating to~~
30 ~~special rule for first year of credit period, shall not apply to the tax~~
31 ~~credit under this section.~~

32 ~~(3) Section 42(f)(3) of the Internal Revenue Code, relating to~~
33 ~~determination of applicable percentage with respect to increases~~
34 ~~in qualified basis after first year of credit period, is modified to~~
35 ~~read:~~

36 ~~If, as of the close of any taxable year in the compliance period,~~
37 ~~after the first year of the credit period, the qualified basis of any~~
38 ~~building exceeds the qualified basis of that building as of the close~~
39 ~~of the first year of the credit period, the housing sponsor, to the~~
40 ~~extent of its tax credit allocation, shall be eligible for a credit on~~

~~1 the excess in an amount equal to the applicable percentage
2 determined pursuant to subdivision (c) for the four-year period
3 beginning with the later of the taxable years in which the increase
4 in qualified basis occurs.~~

~~5 (f) The provisions of Section 42(h) of the Internal Revenue
6 Code, relating to limitation on aggregate credit allowable with
7 respect to projects located in a state, shall be modified as follows:~~

~~8 (1) Section 42(h)(2) of the Internal Revenue Code, relating to
9 allocated credit amount to apply to all taxable years ending during
10 or after credit allocation year, shall not be applicable and instead
11 the following provisions shall be applicable:~~

~~12 The total amount for the four-year credit period of the housing
13 credit dollars allocated in a calendar year to any building shall
14 reduce the aggregate housing credit dollar amount of the California
15 Tax Credit Allocation Committee for the calendar year in which
16 the allocation is made.~~

~~17 (2) Paragraphs (3), (4), (5), (6)(E)(i)(H), (6)(F), (6)(G), (6)(I),
18 (7), and (8) of Section 42(h) of the Internal Revenue Code, relating
19 to limitation on aggregate credit allowable with respect to projects
20 located in a state, shall not be applicable.~~

~~21 (g) The aggregate housing credit dollar amount that may be
22 allocated annually by the California Tax Credit Allocation
23 Committee pursuant to this section, Section 17058, and Section
24 23610.5 shall be an amount equal to the sum of all the following:~~

~~25 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
26 year, and, for the 2002 calendar year and each calendar year
27 thereafter, seventy million dollars (\$70,000,000) increased by the
28 percentage, if any, by which the Consumer Price Index for the
29 preceding calendar year exceeds the Consumer Price Index for the
30 2001 calendar year. For the purposes of this paragraph, the term
31 "Consumer Price Index" means the last Consumer Price Index for
32 All Urban Consumers published by the federal Department of
33 Labor.~~

~~34 (2) The unused housing credit ceiling, if any, for the preceding
35 calendar years.~~

~~36 (3) The amount of housing credit ceiling returned in the calendar
37 year. For purposes of this paragraph, the amount of housing credit
38 dollar amount returned in the calendar year equals the housing
39 credit dollar amount previously allocated to any project that does
40 not become a qualified low-income housing project within the~~

1 period required by this section or to any project with respect to
2 which an allocation is canceled by mutual consent of the California
3 Tax Credit Allocation Committee and the allocation recipient.

4 (4) Five hundred thousand dollars (\$500,000) per calendar year
5 for projects to provide farmworker housing, as defined in
6 subdivision (h) of Section 50199.7 of the Health and Safety Code.

7 (5) The amount of any unallocated or returned credits under
8 former Sections 17053.14, 23608.2, and 23608.3, as those sections
9 read prior to January 1, 2009, until fully exhausted for projects to
10 provide farmworker housing, as defined in subdivision (h) of
11 Section 50199.7 of the Health and Safety Code.

12 (h) The term “compliance period” as defined in Section 42(i)(1)
13 of the Internal Revenue Code, relating to compliance period, is
14 modified to mean, with respect to any building, the period of 30
15 consecutive taxable years beginning with the first taxable year of
16 the credit period with respect thereto.

17 (i) (1) Section 42(j) of the Internal Revenue Code, relating to
18 recapture of credit, shall not be applicable and the provisions in
19 paragraph (2) shall be substituted in its place.

20 (2) The requirements of this section shall be set forth in a
21 regulatory agreement between the California Tax Credit Allocation
22 Committee and the housing sponsor, and this agreement shall be
23 subordinated, when required, to any lien or encumbrance of any
24 banks or other institutional lenders to the project. The regulatory
25 agreement entered into pursuant to subdivision (f) of Section
26 50199.14 of the Health and Safety Code, shall apply, provided that
27 the agreement includes all of the following provisions:

28 (A) A term not less than the compliance period.

29 (B) A requirement that the agreement be recorded in the official
30 records of the county in which the qualified low-income housing
31 project is located.

32 (C) A provision stating which state and local agencies can
33 enforce the regulatory agreement in the event the housing sponsor
34 fails to satisfy any of the requirements of this section.

35 (D) A provision that the regulatory agreement shall be deemed
36 a contract enforceable by tenants as third-party beneficiaries thereto
37 and that allows individuals, whether prospective, present, or former
38 occupants of the building, who meet the income limitation
39 applicable to the building, the right to enforce the regulatory
40 agreement in any state court.

1 ~~(E) A provision incorporating the requirements of Section 42~~
2 ~~of the Internal Revenue Code, relating to low-income housing~~
3 ~~credit, as modified by this section.~~

4 ~~(F) A requirement that the housing sponsor notify the California~~
5 ~~Tax Credit Allocation Committee or its designee and the local~~
6 ~~agency that can enforce the regulatory agreement if there is a~~
7 ~~determination by the Internal Revenue Service that the project is~~
8 ~~not in compliance with Section 42(g) of the Internal Revenue Code,~~
9 ~~relating to qualified low-income housing project.~~

10 ~~(G) A requirement that the housing sponsor, as security for the~~
11 ~~performance of the housing sponsor's obligations under the~~
12 ~~regulatory agreement, assign the housing sponsor's interest in rents~~
13 ~~that it receives from the project, provided that until there is a~~
14 ~~default under the regulatory agreement, the housing sponsor is~~
15 ~~entitled to collect and retain the rents.~~

16 ~~(H) A provision that the remedies available in the event of a~~
17 ~~default under the regulatory agreement that is not cured within a~~
18 ~~reasonable cure period include, but are not limited to, allowing~~
19 ~~any of the parties designated to enforce the regulatory agreement~~
20 ~~to collect all rents with respect to the project; taking possession of~~
21 ~~the project and operating the project in accordance with the~~
22 ~~regulatory agreement until the enforcer determines the housing~~
23 ~~sponsor is in a position to operate the project in accordance with~~
24 ~~the regulatory agreement; applying to any court for specific~~
25 ~~performance; securing the appointment of a receiver to operate~~
26 ~~the project; or any other relief as may be appropriate.~~

27 ~~(j) (1) The committee shall allocate the housing credit on a~~
28 ~~regular basis consisting of two or more periods in each calendar~~
29 ~~year during which applications may be filed and considered. The~~
30 ~~committee shall establish application filing deadlines, the maximum~~
31 ~~percentage of federal and state low-income housing tax credit~~
32 ~~ceiling that may be allocated by the committee in that period, and~~
33 ~~the approximate date on which allocations shall be made. If the~~
34 ~~enactment of federal or state law, the adoption of rules or~~
35 ~~regulations, or other similar events prevent the use of two allocation~~
36 ~~periods, the committee may reduce the number of periods and~~
37 ~~adjust the filing deadlines, maximum percentage of credit allocated,~~
38 ~~and the allocation dates.~~

39 ~~(2) The committee shall adopt a qualified allocation plan, as~~
40 ~~provided in Section 42(m)(1) of the Internal Revenue Code, relating~~

1 to plans for allocation of credit among projects. In adopting this
2 plan, the committee shall comply with the provisions of Sections
3 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
4 relating to qualified allocation plan and relating to certain selection
5 criteria must be used, respectively.

6 ~~(3) Notwithstanding Section 42(m) of the Internal Revenue~~
7 ~~Code, relating to responsibilities of housing credit agencies, the~~
8 ~~California Tax Credit Allocation Committee shall allocate housing~~
9 ~~credits in accordance with the qualified allocation plan and~~
10 ~~regulations, which shall include the following provisions:~~

11 ~~(A) All housing sponsors, as defined by paragraph (3) of~~
12 ~~subdivision (a), shall demonstrate at the time the application is~~
13 ~~filed with the committee that the project meets the following~~
14 ~~threshold requirements:~~

15 ~~(i) The housing sponsor shall demonstrate that there is a need~~
16 ~~and demand for low-income housing in the community or region~~
17 ~~for which it is proposed.~~

18 ~~(ii) The project's proposed financing, including tax credit~~
19 ~~proceeds, shall be sufficient to complete the project and that the~~
20 ~~proposed operating income shall be adequate to operate the project~~
21 ~~for the extended use period.~~

22 ~~(iii) The project shall have enforceable financing commitments,~~
23 ~~either construction or permanent financing, for at least 50 percent~~
24 ~~of the total estimated financing of the project.~~

25 ~~(iv) The housing sponsor shall have and maintain control of the~~
26 ~~site for the project.~~

27 ~~(v) The housing sponsor shall demonstrate that the project~~
28 ~~complies with all applicable local land use and zoning ordinances.~~

29 ~~(vi) The housing sponsor shall demonstrate that the project~~
30 ~~development team has the experience and the financial capacity~~
31 ~~to ensure project completion and operation for the extended use~~
32 ~~period.~~

33 ~~(vii) The housing sponsor shall demonstrate the amount of tax~~
34 ~~credit that is necessary for the financial feasibility of the project~~
35 ~~and its viability as a qualified low-income housing project~~
36 ~~throughout the extended use period, taking into account operating~~
37 ~~expenses, a supportable debt service, reserves, funds set aside for~~
38 ~~rental subsidies and required equity, and a development fee that~~
39 ~~does not exceed a specified percentage of the eligible basis of the~~

1 project prior to inclusion of the development fee in the eligible
2 basis, as determined by the committee.

3 (B) The committee shall give a preference to those projects
4 satisfying all of the threshold requirements of subparagraph (A)
5 if both of the following apply:

6 (i) The project serves the lowest income tenants at rents
7 affordable to those tenants.

8 (ii) The project is obligated to serve qualified tenants for the
9 longest period.

10 (C) In addition to the provisions of subparagraphs (A) and (B),
11 the committee shall use the following criteria in allocating housing
12 credits:

13 (i) Projects serving large families in which a substantial number,
14 as defined by the committee, of all residential units are low-income
15 units with three and more bedrooms.

16 (ii) Projects providing single-room occupancy units serving
17 very low income tenants.

18 (iii) Existing projects that are “at risk of conversion,” as defined
19 by paragraph (3) of subdivision (c).

20 (iv) Projects for which a public agency provides direct or indirect
21 long-term financial support for at least 15 percent of the total
22 project development costs or projects for which the owner’s equity
23 constitutes at least 30 percent of the total project development
24 costs.

25 (v) Projects that provide tenant amenities not generally available
26 to residents of low-income housing projects.

27 (4) For purposes of allocating credits pursuant to this section,
28 the committee shall not give preference to any project by virtue
29 of the date of submission of its application except to break a tie
30 when two or more of the projects have an equal rating.

31 (k) Section 42(l) of the Internal Revenue Code, relating to
32 certifications and other reports to the secretary, shall be modified
33 as follows:

34 The term “secretary” shall be replaced by the term “Franchise
35 Tax Board.”

36 (l) In the case where the credit allowed under this section
37 exceeds the “tax,” the excess may be carried over to reduce the
38 “tax” in the following year, and succeeding years if necessary,
39 until the credit has been exhausted.

1 ~~(m) The provisions of Section 11407(a) of Public Law 101-508,~~
2 ~~relating to the effective date of the extension of the low-income~~
3 ~~housing credit, shall apply to calendar years after 1993.~~

4 ~~(n) The provisions of Section 11407(e) of Public Law 101-508,~~
5 ~~relating to election to accelerate credit, shall not apply.~~

6 ~~(o) (1) For a project that receives a preliminary reservation~~
7 ~~under this section beginning on or after January 1, 2016, a taxpayer~~
8 ~~may make an irrevocable election in its application to the California~~
9 ~~Tax Credit Allocation Committee to sell all or any portion of any~~
10 ~~credit allowed under this section to one or more unrelated parties~~
11 ~~for each taxable year in which the credit is allowed subject to both~~
12 ~~of the following conditions:~~

13 ~~(A) The credit is sold for consideration that is not less than 80~~
14 ~~percent of the amount of the credit.~~

15 ~~(B) The unrelated party or parties purchasing any or all of the~~
16 ~~credit pursuant to this subdivision is a taxpayer allowed the credit~~
17 ~~under this section for the taxable year of the purchase or any prior~~
18 ~~taxable year or is a taxpayer allowed the federal credit under~~
19 ~~Section 42 of the Internal Revenue Code, relating to low-income~~
20 ~~housing credit, for the taxable year of the purchase or any prior~~
21 ~~taxable year in connection with any project located in this state.~~
22 ~~For purposes of this subparagraph, “taxpayer allowed the credit~~
23 ~~under this section” means a taxpayer that is allowed the credit~~
24 ~~under this section without regard to the purchase of a credit~~
25 ~~pursuant to this subdivision.~~

26 ~~(2) (A) The taxpayer that originally received the credit shall~~
27 ~~report to the California Tax Credit Allocation Committee within~~
28 ~~10 days of the sale of the credit, in the form and manner specified~~
29 ~~by the California Tax Credit Allocation Committee, all required~~
30 ~~information regarding the purchase and sale of the credit, including~~
31 ~~the social security or other taxpayer identification number of the~~
32 ~~unrelated party to whom the credit has been sold, the face amount~~
33 ~~of the credit sold, and the amount of consideration received by the~~
34 ~~taxpayer for the sale of the credit.~~

35 ~~(B) The California Tax Credit Allocation Committee shall~~
36 ~~provide an annual listing to the Franchise Tax Board, in a form~~
37 ~~and manner agreed upon by the California Tax Credit Allocation~~
38 ~~Committee and the Franchise Tax Board, of the taxpayers that~~
39 ~~have sold or purchased a credit pursuant to this subdivision.~~

~~(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.~~

~~(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.~~

~~(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.~~

~~(4) Notwithstanding any other provision of law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to any party to whom the credit has been sold or subsequently transferred. Parties who purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.~~

~~(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.~~

~~(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.~~

~~(p) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.~~

~~(q) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.~~

~~SEC. 2. Section 17058 of the Revenue and Taxation Code is amended to read:~~

1 ~~17058. (a) (1) There shall be allowed as a credit against the~~
2 ~~“net tax,” as defined in Section 17039, a state low-income housing~~
3 ~~tax credit in an amount equal to the amount determined in~~
4 ~~subdivision (c), computed in accordance with Section 42 of the~~
5 ~~Internal Revenue Code, relating to low-income housing credit,~~
6 ~~except as otherwise provided in this section.~~

7 ~~(2) “Taxpayer,” for purposes of this section, means the sole~~
8 ~~owner in the case of an individual, the partners in the case of a~~
9 ~~partnership, and the shareholders in the case of an “S” corporation.~~

10 ~~(3) “Housing sponsor,” for purposes of this section, means the~~
11 ~~sole owner in the case of an individual, the partnership in the case~~
12 ~~of a partnership, and the “S” corporation in the case of an “S”~~
13 ~~corporation.~~

14 ~~(b) (1) The amount of the credit allocated to any housing~~
15 ~~sponsor shall be authorized by the California Tax Credit Allocation~~
16 ~~Committee, or any successor thereof, based on a project’s need~~
17 ~~for the credit for economic feasibility in accordance with the~~
18 ~~requirements of this section.~~

19 ~~(A) The low-income housing project shall be located in~~
20 ~~California and shall meet either of the following requirements:~~

21 ~~(i) Except for projects to provide farmworker housing, as defined~~
22 ~~in subdivision (h) of Section 50199.7 of the Health and Safety~~
23 ~~Code, that are allocated credits solely under the set-aside described~~
24 ~~in subdivision (e) of Section 50199.20 of the Health and Safety~~
25 ~~Code, the project’s housing sponsor has been allocated by the~~
26 ~~California Tax Credit Allocation Committee a credit for federal~~
27 ~~income tax purposes under Section 42 of the Internal Revenue~~
28 ~~Code, relating to low-income housing credit.~~

29 ~~(ii) It qualifies for a credit under Section 42(h)(4)(B) of the~~
30 ~~Internal Revenue Code, relating to special rule where 50 percent~~
31 ~~or more of building is financed with tax-exempt bonds subject to~~
32 ~~volume cap.~~

33 ~~(B) The California Tax Credit Allocation Committee shall not~~
34 ~~require fees for the credit under this section in addition to those~~
35 ~~fees required for applications for the tax credit pursuant to Section~~
36 ~~42 of the Internal Revenue Code, relating to low-income housing~~
37 ~~credit. The committee may require a fee if the application for the~~
38 ~~credit under this section is submitted in a calendar year after the~~
39 ~~year the application is submitted for the federal tax credit.~~

~~(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.~~

~~(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).~~

~~(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.~~

~~(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.~~

~~(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.~~

~~(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.~~

~~(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.~~

~~(E) (i) Except as described in clause (ii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in~~

1 the amounts prescribed in subdivision (c), provided that the amount
2 of credit allocated under Section 42 of the Internal Revenue Code,
3 relating to low-income housing credit, is computed on 100 percent
4 of the qualified basis of the building.

5 (ii) ~~Notwithstanding clause (i), the California Tax Credit~~
6 ~~Allocation Committee may allocate the credit for buildings located~~
7 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~
8 ~~occupants be special needs households, as defined in the California~~
9 ~~Code of Regulations by the California Tax Credit Allocation~~
10 ~~Committee, even if the taxpayer receives federal credits pursuant~~
11 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, relating to~~
12 ~~increase in credit for buildings in high-cost areas, provided that~~
13 ~~the credit allowed under this section shall not exceed 30 percent~~
14 ~~of the eligible basis of the building.~~

15 (F) (i) ~~The California Tax Credit Allocation Committee may~~
16 ~~allocate a credit under this section in exchange for a credit allocated~~
17 ~~pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,~~
18 ~~relating to increase in credit for buildings in high-cost areas, in~~
19 ~~amounts up to 30 percent of the eligible basis of a building if the~~
20 ~~credits allowed under Section 42 of the Internal Revenue Code,~~
21 ~~relating to low-income housing credit, are reduced by an equivalent~~
22 ~~amount.~~

23 (ii) ~~An equivalent amount shall be determined by the California~~
24 ~~Tax Credit Allocation Committee based upon the relative amount~~
25 ~~required to produce an equivalent state tax credit to the taxpayer.~~

26 (c) ~~Section 42(b) of the Internal Revenue Code, relating to~~
27 ~~applicable percentage, shall be modified as follows:~~

28 (1) ~~In the case of any qualified low-income building placed in~~
29 ~~service by the housing sponsor during 1987, the term “applicable~~
30 ~~percentage” means 9 percent for each of the first three years and~~
31 ~~3 percent for the fourth year for new buildings (whether or not the~~
32 ~~building is federally subsidized) and for existing buildings.~~

33 (2) ~~In the case of any qualified low-income building that receives~~
34 ~~an allocation after 1989 and is a new building not federally~~
35 ~~subsidized, the term “applicable percentage” means the following:~~

36 (A) ~~For each of the first three years, the percentage prescribed~~
37 ~~by the Secretary of the Treasury for new buildings that are not~~
38 ~~federally subsidized for the taxable year, determined in accordance~~
39 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
40 ~~Code, relating to temporary minimum credit rate for nonfederally~~

1 subsidized new buildings, in lieu of the percentage prescribed in
2 Section 42(b)(1)(A) of the Internal Revenue Code.

3 (B) For the fourth year, the difference between 30 percent and
4 the sum of the applicable percentages for the first three years.

5 (3) In the case of any qualified low-income building that receives
6 an allocation after 1989 and that is a new building that is federally
7 subsidized or that is an existing building that is “at risk of
8 conversion,” the term “applicable percentage” means the following:

9 (A) For each of the first three years, the percentage prescribed
10 by the Secretary of the Treasury for new buildings that are federally
11 subsidized for the taxable year.

12 (B) For the fourth year, the difference between 13 percent and
13 the sum of the applicable percentages for the first three years.

14 (4) For purposes of this section, the term “at risk of conversion,”
15 with respect to an existing property means a property that satisfies
16 all of the following criteria:

17 (A) The property is a multifamily rental housing development
18 in which at least 50 percent of the units receive governmental
19 assistance pursuant to any of the following:

20 (i) New construction, substantial rehabilitation, moderate
21 rehabilitation, property disposition, and loan management set-aside
22 programs, or any other program providing project-based assistance
23 pursuant to Section 8 of the United States Housing Act of 1937,
24 Section 1437f of Title 42 of the United States Code, as amended.

25 (ii) The Below-Market-Interest-Rate Program pursuant to
26 Section 221(d)(3) of the National Housing Act, Sections
27 1715(d)(3) and (5) of Title 12 of the United States Code.

28 (iii) Section 236 of the National Housing Act, Section 1715z-1
29 of Title 12 of the United States Code.

30 (iv) Programs for rent supplement assistance pursuant to Section
31 101 of the Housing and Urban Development Act of 1965, Section
32 1701s of Title 12 of the United States Code, as amended.

33 (v) Programs pursuant to Section 515 of the Housing Act of
34 1949, Section 1485 of Title 42 of the United States Code, as
35 amended.

36 (vi) The low-income housing credit program set forth in Section
37 42 of the Internal Revenue Code, relating to low-income housing
38 credit.

39 (B) The restrictions on rent and income levels will terminate or
40 the federally insured mortgage on the property is eligible for

1 prepayment any time within five years before or after the date of
2 application to the California Tax Credit Allocation Committee.

3 (C) The entity acquiring the property enters into a regulatory
4 agreement that requires the property to be operated in accordance
5 with the requirements of this section for a period equal to the
6 greater of 55 years or the life of the property.

7 (D) The property satisfies the requirements of Section 42(e) of
8 the Internal Revenue Code relating to rehabilitation expenditures
9 treated as a separate new building, except that the provisions of
10 Section 42(e)(3)(A)(ii)(I) shall not apply.

11 (d) The term “qualified low-income housing project” as defined
12 in Section 42(e)(2) of the Internal Revenue Code, relating to
13 qualified low-income building, is modified by adding the following
14 requirements:

15 (1) The taxpayer shall be entitled to receive a cash distribution
16 from the operations of the project, after funding required reserves,
17 that, at the election of the taxpayer, is equal to:

18 (A) An amount not to exceed 8 percent of the lesser of:

19 (i) The owner equity, which shall include the amount of the
20 capital contributions actually paid to the housing sponsor and shall
21 not include any amounts until they are paid on an investor note.

22 (ii) Twenty percent of the adjusted basis of the building as of
23 the close of the first taxable year of the credit period.

24 (B) The amount of the cashflow from those units in the building
25 that are not low-income units. For purposes of computing cashflow
26 under this subparagraph, operating costs shall be allocated to the
27 low-income units using the “floor space fraction,” as defined in
28 Section 42 of the Internal Revenue Code, relating to low-income
29 housing credit.

30 (C) Any amount allowed to be distributed under subparagraph
31 (A) that is not available for distribution during the first five years
32 of the compliance period may be accumulated and distributed any
33 time during the first 15 years of the compliance period but not
34 thereafter.

35 (2) The limitation on return shall apply in the aggregate to the
36 partners if the housing sponsor is a partnership and in the aggregate
37 to the shareholders if the housing sponsor is an “S” corporation.

38 (3) The housing sponsor shall apply any cash available for
39 distribution in excess of the amount eligible to be distributed under
40 paragraph (1) to reduce the rent on rent-restricted units or to

1 increase the number of rent-restricted units subject to the tests of
2 Section 42(g)(1) of the Internal Revenue Code, relating to in
3 general:

4 (e) The provisions of Section 42(f) of the Internal Revenue
5 Code, relating to definition and special rules relating to credit
6 period, shall be modified as follows:

7 (1) The term “credit period” as defined in Section 42(f)(1) of
8 the Internal Revenue Code, relating to credit period defined, is
9 modified by substituting “four taxable years” for “10 taxable
10 years.”

11 (2) The special rule for the first taxable year of the credit period
12 under Section 42(f)(2) of the Internal Revenue Code, relating to
13 special rule for first year of credit period, shall not apply to the tax
14 credit under this section:

15 (3) Section 42(f)(3) of the Internal Revenue Code, relating to
16 determination of applicable percentage with respect to increases
17 in qualified basis after first year of credit period, is modified to
18 read:

19 If, as of the close of any taxable year in the compliance period,
20 after the first year of the credit period, the qualified basis of any
21 building exceeds the qualified basis of that building as of the close
22 of the first year of the credit period, the housing sponsor, to the
23 extent of its tax credit allocation, shall be eligible for a credit on
24 the excess in an amount equal to the applicable percentage
25 determined pursuant to subdivision (c) for the four-year period
26 beginning with the taxable year in which the increase in qualified
27 basis occurs:

28 (f) The provisions of Section 42(h) of the Internal Revenue
29 Code, relating to limitation on aggregate credit allowable with
30 respect to projects located in a state, shall be modified as follows:

31 (1) Section 42(h)(2) of the Internal Revenue Code, relating to
32 allocated credit amount to apply to all taxable years ending during
33 or after credit allocation year, shall not be applicable and instead
34 the following provisions shall be applicable:

35 The total amount for the four-year credit period of the housing
36 credit dollars allocated in a calendar year to any building shall
37 reduce the aggregate housing credit dollar amount of the California
38 Tax Credit Allocation Committee for the calendar year in which
39 the allocation is made:

1 ~~(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),~~
2 ~~(7), and (8) of Section 42(h) of the Internal Revenue Code, relating~~
3 ~~to limitation on aggregate credit allowable with respect to projects~~
4 ~~located in a state, shall not be applicable.~~

5 ~~(g) The aggregate housing credit dollar amount that may be~~
6 ~~allocated annually by the California Tax Credit Allocation~~
7 ~~Committee pursuant to this section, Section 12206, and Section~~
8 ~~23610.5 shall be an amount equal to the sum of all the following:~~

9 ~~(1) Seventy million dollars (\$70,000,000) for the 2001 calendar~~
10 ~~year, and, for the 2002 calendar year and each calendar year~~
11 ~~thereafter, seventy million dollars (\$70,000,000) increased by the~~
12 ~~percentage, if any, by which the Consumer Price Index for the~~
13 ~~preceeding calendar year exceeds the Consumer Price Index for the~~
14 ~~2001 calendar year. For the purposes of this paragraph, the term~~
15 ~~“Consumer Price Index” means the last Consumer Price Index for~~
16 ~~All Urban Consumers published by the federal Department of~~
17 ~~Labor.~~

18 ~~(2) The unused housing credit ceiling, if any, for the preceeding~~
19 ~~calendar years.~~

20 ~~(3) The amount of housing credit ceiling returned in the calendar~~
21 ~~year. For purposes of this paragraph, the amount of housing credit~~
22 ~~dollar amount returned in the calendar year equals the housing~~
23 ~~credit dollar amount previously allocated to any project that does~~
24 ~~not become a qualified low-income housing project within the~~
25 ~~period required by this section or to any project with respect to~~
26 ~~which an allocation is canceled by mutual consent of the California~~
27 ~~Tax Credit Allocation Committee and the allocation recipient.~~

28 ~~(4) Five hundred thousand dollars (\$500,000) per calendar year~~
29 ~~for projects to provide farmworker housing, as defined in~~
30 ~~subdivision (h) of Section 50199.7 of the Health and Safety Code.~~

31 ~~(5) The amount of any unallocated or returned credits under~~
32 ~~former Sections 17053.14, 23608.2, and 23608.3, as those sections~~
33 ~~read prior to January 1, 2009, until fully exhausted for projects to~~
34 ~~provide farmworker housing, as defined in subdivision (h) of~~
35 ~~Section 50199.7 of the Health and Safety Code.~~

36 ~~(h) The term “compliance period” as defined in Section 42(i)(1)~~
37 ~~of the Internal Revenue Code, relating to compliance period, is~~
38 ~~modified to mean, with respect to any building, the period of 30~~
39 ~~consecutive taxable years beginning with the first taxable year of~~
40 ~~the credit period with respect thereto.~~

~~(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and this agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:~~

~~(1) A term not less than the compliance period.~~

~~(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.~~

~~(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.~~

~~(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.~~

~~(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.~~

~~(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.~~

~~(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.~~

~~(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing~~

1 any of the parties designated to enforce the regulatory agreement
2 to collect all rents with respect to the project; taking possession of
3 the project and operating the project in accordance with the
4 regulatory agreement until the enforcer determines the housing
5 sponsor is in a position to operate the project in accordance with
6 the regulatory agreement; applying to any court for specific
7 performance; securing the appointment of a receiver to operate
8 the project; or any other relief as may be appropriate.

9 (j) (1) The committee shall allocate the housing credit on a
10 regular basis consisting of two or more periods in each calendar
11 year during which applications may be filed and considered. The
12 committee shall establish application filing deadlines, the maximum
13 percentage of federal and state low-income housing tax credit
14 ceiling that may be allocated by the committee in that period, and
15 the approximate date on which allocations shall be made. If the
16 enactment of federal or state law, the adoption of rules or
17 regulations, or other similar events prevent the use of two allocation
18 periods, the committee may reduce the number of periods and
19 adjust the filing deadlines, maximum percentage of credit allocated,
20 and the allocation dates.

21 (2) The committee shall adopt a qualified allocation plan, as
22 provided in Section 42(m)(1) of the Internal Revenue Code, relating
23 to plans for allocation of credit among projects. In adopting this
24 plan, the committee shall comply with the provisions of Sections
25 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
26 relating to qualified allocation plan and relating to certain selection
27 criteria must be used, respectively.

28 (3) Notwithstanding Section 42(m) of the Internal Revenue
29 Code, relating to responsibilities of housing credit agencies, the
30 California Tax Credit Allocation Committee shall allocate housing
31 credits in accordance with the qualified allocation plan and
32 regulations, which shall include the following provisions:

33 (A) All housing sponsors, as defined by paragraph (3) of
34 subdivision (a), shall demonstrate at the time the application is
35 filed with the committee that the project meets the following
36 threshold requirements:

37 (i) The housing sponsor shall demonstrate that there is a need
38 and demand for low-income housing in the community or region
39 for which it is proposed.

~~(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.~~

~~(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.~~

~~(iv) The housing sponsor shall have and maintain control of the site for the project.~~

~~(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.~~

~~(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.~~

~~(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.~~

~~(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:~~

~~(i) The project serves the lowest income tenants at rents affordable to those tenants.~~

~~(ii) The project is obligated to serve qualified tenants for the longest period.~~

~~(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:~~

~~(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three and more bedrooms.~~

~~(ii) Projects providing single-room occupancy units serving very low income tenants.~~

1 (iii) Existing projects that are “at risk of conversion,” as defined
2 by paragraph (4) of subdivision (c):

3 (iv) Projects for which a public agency provides direct or indirect
4 long-term financial support for at least 15 percent of the total
5 project development costs or projects for which the owner’s equity
6 constitutes at least 30 percent of the total project development
7 costs:

8 (v) Projects that provide tenant amenities not generally available
9 to residents of low-income housing projects:

10 (4) For purposes of allocating credits pursuant to this section,
11 the committee shall not give preference to any project by virtue
12 of the date of submission of its application:

13 (k) Section 42(l) of the Internal Revenue Code, relating to
14 certifications and other reports to secretary, shall be modified as
15 follows:

16 The term “secretary” shall be replaced by the term “Franchise
17 Tax Board.”

18 (l) In the case where the credit allowed under this section
19 exceeds the net tax, the excess may be carried over to reduce the
20 net tax in the following year, and succeeding years if necessary,
21 until the credit has been exhausted:

22 (m) A project that received an allocation of a 1989 federal
23 housing credit dollar amount shall be eligible to receive an
24 allocation of a 1990 state housing credit dollar amount, subject to
25 all of the following conditions:

26 (1) The project was not placed in service prior to 1990:

27 (2) To the extent the amendments made to this section by the
28 Statutes of 1990 conflict with any provisions existing in this section
29 prior to those amendments, the prior provisions of law shall prevail:

30 (3) Notwithstanding paragraph (2), a project applying for an
31 allocation under this subdivision shall be subject to the
32 requirements of paragraph (3) of subdivision (j):

33 (n) The credit period with respect to an allocation of credit in
34 1989 by the California Tax Credit Allocation Committee of which
35 any amount is attributable to unallocated credit from 1987 or 1988
36 shall not begin until after December 31, 1989:

37 (o) The provisions of Section 11407(a) of Public Law 101-508,
38 relating to the effective date of the extension of the low-income
39 housing credit, shall apply to calendar years after 1989:

1 ~~(p) The provisions of Section 11407(e) of Public Law 101-508,~~
2 ~~relating to election to accelerate credit, shall not apply.~~

3 ~~(q) Any unused credit may continue to be carried forward, as~~
4 ~~provided in subdivision (l), until the credit has been exhausted.~~

5 ~~This section shall remain in effect on and after December 1,~~
6 ~~1990, for as long as Section 42 of the Internal Revenue Code,~~
7 ~~relating to low-income housing credit, remains in effect.~~

8 ~~(r) (1) For a project that receives a preliminary reservation~~
9 ~~under this section beginning on or after January 1, 2016, a taxpayer~~
10 ~~may make an irrevocable election in its application to the California~~
11 ~~Tax Credit Allocation Committee to sell all or any portion of any~~
12 ~~credit allowed under this section to one or more unrelated parties~~
13 ~~for each taxable year in which the credit is allowed subject to both~~
14 ~~of the following conditions:~~

15 ~~(A) The credit is sold for consideration that is not less than 80~~
16 ~~percent of the amount of the credit.~~

17 ~~(B) The unrelated party or parties purchasing any or all of the~~
18 ~~credit pursuant to this subdivision is a taxpayer allowed the credit~~
19 ~~under this section for the taxable year of the purchase or any prior~~
20 ~~taxable year or is a taxpayer allowed the federal credit under~~
21 ~~Section 42 of the Internal Revenue Code, relating to low-income~~
22 ~~housing credit, for the taxable year of the purchase or any prior~~
23 ~~taxable year in connection with any project located in this state.~~
24 ~~For purposes of this subparagraph, "taxpayer allowed the credit~~
25 ~~under this section" means a taxpayer that is allowed the credit~~
26 ~~under this section without regard to the purchase of a credit~~
27 ~~pursuant to this subdivision.~~

28 ~~(2) (A) The taxpayer that originally received the credit shall~~
29 ~~report to the California Tax Credit Allocation Committee within~~
30 ~~10 days of the sale of the credit, in the form and manner specified~~
31 ~~by the California Tax Credit Allocation Committee, all required~~
32 ~~information regarding the purchase and sale of the credit, including~~
33 ~~the social security or other taxpayer identification number of the~~
34 ~~unrelated party to whom the credit has been sold, the face amount~~
35 ~~of the credit sold, and the amount of consideration received by the~~
36 ~~taxpayer for the sale of the credit.~~

37 ~~(B) The California Tax Credit Allocation Committee shall~~
38 ~~provide an annual listing to the Franchise Tax Board, in a form~~
39 ~~and manner agreed upon by the California Tax Credit Allocation~~

1 ~~Committee and the Franchise Tax Board, of the taxpayers that~~
2 ~~have sold or purchased a credit pursuant to this subdivision.~~

3 ~~(3) (A) A credit may be sold pursuant to this subdivision to~~
4 ~~more than one unrelated party.~~

5 ~~(B) (i) Except as provided in clause (ii), a credit shall not be~~
6 ~~resold by the unrelated party to another taxpayer or other party.~~

7 ~~(ii) All or any portion of any credit allowed under this section~~
8 ~~may be resold once by an original purchaser to one or more~~
9 ~~unrelated parties, subject to all of the requirements of this~~
10 ~~subdivision.~~

11 ~~(4) Notwithstanding any other provision of law, the taxpayer~~
12 ~~that originally received the credit that is sold pursuant to paragraph~~
13 ~~(1) shall remain solely liable for all obligations and liabilities~~
14 ~~imposed on the taxpayer by this section with respect to the credit,~~
15 ~~none of which shall apply to any party to whom the credit has been~~
16 ~~sold or subsequently transferred. Parties who purchase credits~~
17 ~~pursuant to paragraph (1) shall be entitled to utilize the purchased~~
18 ~~credits in the same manner in which the taxpayer that originally~~
19 ~~received the credit could utilize them.~~

20 ~~(5) A taxpayer shall not sell a credit allowed by this section if~~
21 ~~the taxpayer was allowed the credit on any tax return of the~~
22 ~~taxpayer.~~

23 ~~(6) Notwithstanding paragraph (1), the taxpayer, with the~~
24 ~~approval of the Executive Director of the California Tax Credit~~
25 ~~Allocation Committee, may rescind the election to sell all or any~~
26 ~~portion of the credit allowed under this section if the consideration~~
27 ~~for the credit falls below 80 percent of the amount of the credit~~
28 ~~after the California Tax Credit Allocation Committee reservation.~~

29 ~~(s) The California Tax Credit Allocation Committee may~~
30 ~~prescribe rules, guidelines, or procedures necessary or appropriate~~
31 ~~to carry out the purposes of this section, including any guidelines~~
32 ~~regarding the allocation of the credit allowed under this section.~~
33 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~
34 ~~3 of Title 2 of the Government Code shall not apply to any rule,~~
35 ~~guideline, or procedure prescribed by the California Tax Credit~~
36 ~~Allocation Committee pursuant to this section.~~

37 ~~(t) The amendments to this section made by Chapter 1222 of~~
38 ~~the Statutes of 1993 shall apply only to taxable years beginning~~
39 ~~on or after January 1, 1994.~~

1 ~~SEC. 3. Section 23610.5 of the Revenue and Taxation Code~~
2 ~~is amended to read:~~

3 ~~23610.5. (a) (1) There shall be allowed as a credit against the~~
4 ~~“tax,” as defined by Section 23036, a state low-income housing~~
5 ~~tax credit in an amount equal to the amount determined in~~
6 ~~subdivision (c), computed in accordance with Section 42 of the~~
7 ~~Internal Revenue Code, relating to low-income housing credit,~~
8 ~~except as otherwise provided in this section.~~

9 ~~(2) “Taxpayer,” for purposes of this section, means the sole~~
10 ~~owner in the case of a “C” corporation, the partners in the case of~~
11 ~~a partnership, and the shareholders in the case of an “S”~~
12 ~~corporation.~~

13 ~~(3) “Housing sponsor,” for purposes of this section, means the~~
14 ~~sole owner in the case of a “C” corporation, the partnership in the~~
15 ~~case of a partnership, and the “S” corporation in the case of an “S”~~
16 ~~corporation.~~

17 ~~(b) (1) The amount of the credit allocated to any housing~~
18 ~~sponsor shall be authorized by the California Tax Credit Allocation~~
19 ~~Committee, or any successor thereof, based on a project’s need~~
20 ~~for the credit for economic feasibility in accordance with the~~
21 ~~requirements of this section.~~

22 ~~(A) The low-income housing project shall be located in~~
23 ~~California and shall meet either of the following requirements:~~

24 ~~(i) Except for projects to provide farmworker housing, as defined~~
25 ~~in subdivision (h) of Section 50199.7 of the Health and Safety~~
26 ~~Code, that are allocated credits solely under the set-aside described~~
27 ~~in subdivision (c) of Section 50199.20 of the Health and Safety~~
28 ~~Code, the project’s housing sponsor has been allocated by the~~
29 ~~California Tax Credit Allocation Committee a credit for federal~~
30 ~~income tax purposes under Section 42 of the Internal Revenue~~
31 ~~Code, relating to low-income housing credit.~~

32 ~~(ii) It qualifies for a credit under Section 42(h)(4)(B) of the~~
33 ~~Internal Revenue Code, relating to special rule where 50 percent~~
34 ~~or more of building is financed with tax-exempt bonds subject to~~
35 ~~volume cap.~~

36 ~~(B) The California Tax Credit Allocation Committee shall not~~
37 ~~require fees for the credit under this section in addition to those~~
38 ~~fees required for applications for the tax credit pursuant to Section~~
39 ~~42 of the Internal Revenue Code, relating to low-income housing~~
40 ~~credit. The committee may require a fee if the application for the~~

1 credit under this section is submitted in a calendar year after the
2 year the application is submitted for the federal tax credit.

3 (C) (i) For a project that receives a preliminary reservation of
4 the state low-income housing tax credit, allowed pursuant to
5 subdivision (a), on or after January 1, 2009, the credit shall be
6 allocated to the partners of a partnership owning the project in
7 accordance with the partnership agreement, regardless of how the
8 federal low-income housing tax credit with respect to the project
9 is allocated to the partners, or whether the allocation of the credit
10 under the terms of the agreement has substantial economic effect,
11 within the meaning of Section 704(b) of the Internal Revenue
12 Code, relating to determination of distributive share.

13 (ii) To the extent the allocation of the credit to a partner under
14 this section lacks substantial economic effect, any loss or deduction
15 otherwise allowable under this part that is attributable to the sale
16 or other disposition of that partner's partnership interest made prior
17 to the expiration of the federal credit shall not be allowed in the
18 taxable year in which the sale or other disposition occurs, but shall
19 instead be deferred until and treated as if it occurred in the first
20 taxable year immediately following the taxable year in which the
21 federal credit period expires for the project described in clause (i).

22 (iii) This subparagraph shall not apply to a project that receives
23 a preliminary reservation of state low-income housing tax credits
24 under the set-aside described in subdivision (c) of Section 50199.20
25 of the Health and Safety Code unless the project also receives a
26 preliminary reservation of federal low-income housing tax credits.

27 (2) (A) The California Tax Credit Allocation Committee shall
28 certify to the housing sponsor the amount of tax credit under this
29 section allocated to the housing sponsor for each credit period.

30 (B) In the case of a partnership or an "S" corporation, the
31 housing sponsor shall provide a copy of the California Tax Credit
32 Allocation Committee certification to the taxpayer.

33 (C) The taxpayer shall, upon request, provide a copy of the
34 certification to the Franchise Tax Board.

35 (D) All elections made by the taxpayer pursuant to Section 42
36 of the Internal Revenue Code, relating to low-income housing
37 credit, shall apply to this section.

38 (E) (i) Except as described in clause (ii), for buildings located
39 in designated difficult development areas (DDAs) or qualified
40 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the

1 Internal Revenue Code, relating to increase in credit for buildings
2 in high-cost areas, credits may be allocated under this section in
3 the amounts prescribed in subdivision (c), provided that the amount
4 of credit allocated under Section 42 of the Internal Revenue Code,
5 relating to low-income housing credit, is computed on 100 percent
6 of the qualified basis of the building.

7 (ii) ~~Notwithstanding clause (i), the California Tax Credit~~
8 ~~Allocation Committee may allocate the credit for buildings located~~
9 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~
10 ~~occupants be special needs households, as defined in the California~~
11 ~~Code of Regulations by the California Tax Credit Allocation~~
12 ~~Committee, even if the taxpayer receives federal credits pursuant~~
13 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, relating to~~
14 ~~increase in credit for buildings in high-cost areas, provided that~~
15 ~~the credit allowed under this section shall not exceed 30 percent~~
16 ~~of the eligible basis of the building.~~

17 (F) (i) ~~The California Tax Credit Allocation Committee may~~
18 ~~allocate a credit under this section in exchange for a credit allocated~~
19 ~~pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,~~
20 ~~relating to increase in credit for buildings in high-cost areas, in~~
21 ~~amounts up to 30 percent of the eligible basis of a building if the~~
22 ~~credits allowed under Section 42 of the Internal Revenue Code,~~
23 ~~relating to low-income housing credit, are reduced by an equivalent~~
24 ~~amount.~~

25 (ii) ~~An equivalent amount shall be determined by the California~~
26 ~~Tax Credit Allocation Committee based upon the relative amount~~
27 ~~required to produce an equivalent state tax credit to the taxpayer.~~

28 (e) ~~Section 42(b) of the Internal Revenue Code, relating to~~
29 ~~applicable percentage, shall be modified as follows:~~

30 (1) ~~In the case of any qualified low-income building placed in~~
31 ~~service by the housing sponsor during 1987, the term “applicable~~
32 ~~percentage” means 9 percent for each of the first three years and~~
33 ~~3 percent for the fourth year for new buildings (whether or not the~~
34 ~~building is federally subsidized) and for existing buildings.~~

35 (2) ~~In the case of any qualified low-income building that receives~~
36 ~~an allocation after 1989 and is a new building not federally~~
37 ~~subsidized, the term “applicable percentage” means the following:~~

38 (A) ~~For each of the first three years, the percentage prescribed~~
39 ~~by the Secretary of the Treasury for new buildings that are not~~
40 ~~federally subsidized for the taxable year, determined in accordance~~

1 with the requirements of Section 42(b)(2) of the Internal Revenue
2 Code, relating to temporary minimum credit rate for nonfederally
3 subsidized new buildings, in lieu of the percentage prescribed in
4 Section 42(b)(1)(A) of the Internal Revenue Code.

5 (B) For the fourth year, the difference between 30 percent and
6 the sum of the applicable percentages for the first three years.

7 (3) ~~In the case of any qualified low-income building that receives~~
8 ~~an allocation after 1989 and that is a new building that is federally~~
9 ~~subsidized or that is an existing building that is “at risk of~~
10 ~~conversion,” the term “applicable percentage” means the following:~~

11 (A) For each of the first three years, the percentage prescribed
12 by the Secretary of the Treasury for new buildings that are federally
13 subsidized for the taxable year.

14 (B) For the fourth year, the difference between 13 percent and
15 the sum of the applicable percentages for the first three years.

16 (4) For purposes of this section, the term “at risk of conversion,”
17 with respect to an existing property means a property that satisfies
18 all of the following criteria:

19 (A) The property is a multifamily rental housing development
20 in which at least 50 percent of the units receive governmental
21 assistance pursuant to any of the following:

22 (i) New construction, substantial rehabilitation, moderate
23 rehabilitation, property disposition, and loan management set-aside
24 programs, or any other program providing project-based assistance
25 pursuant to Section 8 of the United States Housing Act of 1937,
26 Section 1437f of Title 42 of the United States Code, as amended.

27 (ii) The Below-Market-Interest-Rate Program pursuant to
28 Section 221(d)(3) of the National Housing Act, Sections
29 1715l(d)(3) and (5) of Title 12 of the United States Code.

30 (iii) Section 236 of the National Housing Act, Section 1715z-1
31 of Title 12 of the United States Code.

32 (iv) Programs for rent supplement assistance pursuant to Section
33 101 of the Housing and Urban Development Act of 1965, Section
34 1701s of Title 12 of the United States Code, as amended.

35 (v) Programs pursuant to Section 515 of the Housing Act of
36 1949, Section 1485 of Title 42 of the United States Code, as
37 amended.

38 (vi) The low-income housing credit program set forth in Section
39 42 of the Internal Revenue Code, relating to low-income housing
40 credit.

1 ~~(B) The restrictions on rent and income levels will terminate or~~
2 ~~the federally insured mortgage on the property is eligible for~~
3 ~~prepayment any time within five years before or after the date of~~
4 ~~application to the California Tax Credit Allocation Committee.~~

5 ~~(C) The entity acquiring the property enters into a regulatory~~
6 ~~agreement that requires the property to be operated in accordance~~
7 ~~with the requirements of this section for a period equal to the~~
8 ~~greater of 55 years or the life of the property.~~

9 ~~(D) The property satisfies the requirements of Section 42(e) of~~
10 ~~the Internal Revenue Code relating to rehabilitation expenditures~~
11 ~~treated as a separate new building, except that the provisions of~~
12 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~

13 ~~(d) The term “qualified low-income housing project” as defined~~
14 ~~in Section 42(c)(2) of the Internal Revenue Code, relating to~~
15 ~~qualified low-income building, is modified by adding the following~~
16 ~~requirements:~~

17 ~~(1) The taxpayer shall be entitled to receive a cash distribution~~
18 ~~from the operations of the project, after funding required reserves,~~
19 ~~that, at the election of the taxpayer, is equal to:~~

20 ~~(A) An amount not to exceed 8 percent of the lesser of:~~

21 ~~(i) The owner equity, which shall include the amount of the~~
22 ~~capital contributions actually paid to the housing sponsor and shall~~
23 ~~not include any amounts until they are paid on an investor note.~~

24 ~~(ii) Twenty percent of the adjusted basis of the building as of~~
25 ~~the close of the first taxable year of the credit period.~~

26 ~~(B) The amount of the cashflow from those units in the building~~
27 ~~that are not low-income units. For purposes of computing cashflow~~
28 ~~under this subparagraph, operating costs shall be allocated to the~~
29 ~~low-income units using the “floor space fraction,” as defined in~~
30 ~~Section 42 of the Internal Revenue Code, relating to low-income~~
31 ~~housing credit.~~

32 ~~(C) Any amount allowed to be distributed under subparagraph~~
33 ~~(A) that is not available for distribution during the first five years~~
34 ~~of the compliance period may be accumulated and distributed any~~
35 ~~time during the first 15 years of the compliance period but not~~
36 ~~thereafter.~~

37 ~~(2) The limitation on return shall apply in the aggregate to the~~
38 ~~partners if the housing sponsor is a partnership and in the aggregate~~
39 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

1 ~~(3) The housing sponsor shall apply any cash available for~~
2 ~~distribution in excess of the amount eligible to be distributed under~~
3 ~~paragraph (1) to reduce the rent on rent-restricted units or to~~
4 ~~increase the number of rent-restricted units subject to the tests of~~
5 ~~Section 42(g)(1) of the Internal Revenue Code, relating to in~~
6 ~~general.~~

7 ~~(e) The provisions of Section 42(f) of the Internal Revenue~~
8 ~~Code, relating to definition and special rules relating to credit~~
9 ~~period, shall be modified as follows:~~

10 ~~(1) The term “credit period” as defined in Section 42(f)(1) of~~
11 ~~the Internal Revenue Code, relating to credit period defined, is~~
12 ~~modified by substituting “four taxable years” for “10 taxable~~
13 ~~years.”~~

14 ~~(2) The special rule for the first taxable year of the credit period~~
15 ~~under Section 42(f)(2) of the Internal Revenue Code, relating to~~
16 ~~special rule for first year of credit period, shall not apply to the tax~~
17 ~~credit under this section.~~

18 ~~(3) Section 42(f)(3) of the Internal Revenue Code, relating to~~
19 ~~determination of applicable percentage with respect to increases~~
20 ~~in qualified basis after first year of credit period, is modified to~~
21 ~~read:~~

22 ~~If, as of the close of any taxable year in the compliance period,~~
23 ~~after the first year of the credit period, the qualified basis of any~~
24 ~~building exceeds the qualified basis of that building as of the close~~
25 ~~of the first year of the credit period, the housing sponsor, to the~~
26 ~~extent of its tax credit allocation, shall be eligible for a credit on~~
27 ~~the excess in an amount equal to the applicable percentage~~
28 ~~determined pursuant to subdivision (c) for the four-year period~~
29 ~~beginning with the later of the taxable years in which the increase~~
30 ~~in qualified basis occurs.~~

31 ~~(f) The provisions of Section 42(h) of the Internal Revenue~~
32 ~~Code, relating to limitation on aggregate credit allowable with~~
33 ~~respect to projects located in a state, shall be modified as follows:~~

34 ~~(1) Section 42(h)(2) of the Internal Revenue Code, relating to~~
35 ~~allocated credit amount to apply to all taxable years ending during~~
36 ~~or after credit allocation year, shall not be applicable and instead~~
37 ~~the following provisions shall be applicable:~~

38 ~~The total amount for the four-year credit period of the housing~~
39 ~~credit dollars allocated in a calendar year to any building shall~~
40 ~~reduce the aggregate housing credit dollar amount of the California~~

~~Tax Credit Allocation Committee for the calendar year in which the allocation is made.~~

~~(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall not be applicable.~~

~~(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:~~

~~(1) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.~~

~~(2) The unused housing credit ceiling, if any, for the preceding calendar years.~~

~~(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.~~

~~(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.~~

~~(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.~~

~~(h) The term “compliance period” as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30~~

1 consecutive taxable years beginning with the first taxable year of
2 the credit period with respect thereto.

3 (i) ~~Section 42(j) of the Internal Revenue Code, relating to~~
4 ~~recapture of credit, shall not be applicable and the following shall~~
5 ~~be substituted in its place:~~

6 The requirements of this section shall be set forth in a regulatory
7 agreement between the California Tax Credit Allocation Committee
8 and the housing sponsor, and this agreement shall be subordinated,
9 when required, to any lien or encumbrance of any banks or other
10 institutional lenders to the project. The regulatory agreement
11 entered into pursuant to subdivision (f) of Section 50199.14 of the
12 Health and Safety Code shall apply, provided that the agreement
13 includes all of the following provisions:

14 (1) ~~A term not less than the compliance period.~~

15 (2) ~~A requirement that the agreement be recorded in the official~~
16 ~~records of the county in which the qualified low-income housing~~
17 ~~project is located.~~

18 (3) ~~A provision stating which state and local agencies can~~
19 ~~enforce the regulatory agreement in the event the housing sponsor~~
20 ~~fails to satisfy any of the requirements of this section.~~

21 (4) ~~A provision that the regulatory agreement shall be deemed~~
22 ~~a contract enforceable by tenants as third-party beneficiaries thereto~~
23 ~~and that allows individuals, whether prospective, present, or former~~
24 ~~occupants of the building, who meet the income limitation~~
25 ~~applicable to the building, the right to enforce the regulatory~~
26 ~~agreement in any state court.~~

27 (5) ~~A provision incorporating the requirements of Section 42~~
28 ~~of the Internal Revenue Code, relating to low-income housing~~
29 ~~credit, as modified by this section.~~

30 (6) ~~A requirement that the housing sponsor notify the California~~
31 ~~Tax Credit Allocation Committee or its designee if there is a~~
32 ~~determination by the Internal Revenue Service that the project is~~
33 ~~not in compliance with Section 42(g) of the Internal Revenue Code,~~
34 ~~relating to qualified low-income housing project.~~

35 (7) ~~A requirement that the housing sponsor, as security for the~~
36 ~~performance of the housing sponsor's obligations under the~~
37 ~~regulatory agreement, assign the housing sponsor's interest in rents~~
38 ~~that it receives from the project, provided that until there is a~~
39 ~~default under the regulatory agreement, the housing sponsor is~~
40 ~~entitled to collect and retain the rents.~~

~~(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.~~

~~(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.~~

~~(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.~~

~~(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:~~

~~(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:~~

1 ~~(i) The housing sponsor shall demonstrate that there is a need~~
2 ~~for low-income housing in the community or region for which it~~
3 ~~is proposed.~~

4 ~~(ii) The project's proposed financing, including tax credit~~
5 ~~proceeds, shall be sufficient to complete the project and shall be~~
6 ~~adequate to operate the project for the extended use period.~~

7 ~~(iii) The project shall have enforceable financing commitments,~~
8 ~~either construction or permanent financing, for at least 50 percent~~
9 ~~of the total estimated financing of the project.~~

10 ~~(iv) The housing sponsor shall have and maintain control of the~~
11 ~~site for the project.~~

12 ~~(v) The housing sponsor shall demonstrate that the project~~
13 ~~complies with all applicable local land use and zoning ordinances.~~

14 ~~(vi) The housing sponsor shall demonstrate that the project~~
15 ~~development team has the experience and the financial capacity~~
16 ~~to ensure project completion and operation for the extended use~~
17 ~~period.~~

18 ~~(vii) The housing sponsor shall demonstrate the amount of tax~~
19 ~~credit that is necessary for the financial feasibility of the project~~
20 ~~and its viability as a qualified low-income housing project~~
21 ~~throughout the extended use period, taking into account operating~~
22 ~~expenses, a supportable debt service, reserves, funds set aside for~~
23 ~~rental subsidies and required equity, and a development fee that~~
24 ~~does not exceed a specified percentage of the eligible basis of the~~
25 ~~project prior to inclusion of the development fee in the eligible~~
26 ~~basis, as determined by the committee.~~

27 ~~(B) The committee shall give a preference to those projects~~
28 ~~satisfying all of the threshold requirements of subparagraph (A)~~
29 ~~if both of the following apply:~~

30 ~~(i) The project serves the lowest income tenants at rents~~
31 ~~affordable to those tenants.~~

32 ~~(ii) The project is obligated to serve qualified tenants for the~~
33 ~~longest period.~~

34 ~~(C) In addition to the provisions of subparagraphs (A) and (B),~~
35 ~~the committee shall use the following criteria in allocating housing~~
36 ~~credits:~~

37 ~~(i) Projects serving large families in which a substantial number,~~
38 ~~as defined by the committee, of all residential units are low-income~~
39 ~~units with three and more bedrooms.~~

~~(ii) Projects providing single-room occupancy units serving very low income tenants.~~

~~(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (4) of subdivision (c).~~

~~(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.~~

~~(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.~~

~~(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.~~

~~(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.~~

~~(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:~~

~~The term “secretary” shall be replaced by the term “Franchise Tax Board.”~~

~~(l) In the case where the credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.~~

~~(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:~~

~~(1) The project was not placed in service prior to 1990.~~

1 ~~(2) To the extent the amendments made to this section by the~~
2 ~~Statutes of 1990 conflict with any provisions existing in this section~~
3 ~~prior to those amendments, the prior provisions of law shall prevail.~~

4 ~~(3) Notwithstanding paragraph (2), a project applying for an~~
5 ~~allocation under this subdivision shall be subject to the~~
6 ~~requirements of paragraph (3) of subdivision (j).~~

7 ~~(n) The credit period with respect to an allocation of credit in~~
8 ~~1989 by the California Tax Credit Allocation Committee of which~~
9 ~~any amount is attributable to unallocated credit from 1987 or 1988~~
10 ~~shall not begin until after December 31, 1989.~~

11 ~~(o) The provisions of Section 11407(a) of Public Law 101-508,~~
12 ~~relating to the effective date of the extension of the low-income~~
13 ~~housing credit, shall apply to calendar years after 1989.~~

14 ~~(p) The provisions of Section 11407(c) of Public Law 101-508,~~
15 ~~relating to election to accelerate credit, shall not apply.~~

16 ~~(q) (1) A corporation may elect to assign any portion of any~~
17 ~~credit allowed under this section to one or more affiliated~~
18 ~~corporations for each taxable year in which the credit is allowed.~~
19 ~~For purposes of this subdivision, "affiliated corporation" has the~~
20 ~~meaning provided in subdivision (b) of Section 25110, as that~~
21 ~~section was amended by Chapter 881 of the Statutes of 1993, as~~
22 ~~of the last day of the taxable year in which the credit is allowed,~~
23 ~~except that "100 percent" is substituted for "more than 50 percent"~~
24 ~~wherever it appears in the section, as that section was amended by~~
25 ~~Chapter 881 of the Statutes of 1993, and "voting common stock"~~
26 ~~is substituted for "voting stock" wherever it appears in the section,~~
27 ~~as that section was amended by Chapter 881 of the Statutes of~~
28 ~~1993.~~

29 ~~(2) The election provided in paragraph (1):~~

30 ~~(A) May be based on any method selected by the corporation~~
31 ~~that originally receives the credit.~~

32 ~~(B) Shall be irrevocable for the taxable year the credit is allowed,~~
33 ~~once made.~~

34 ~~(C) May be changed for any subsequent taxable year if the~~
35 ~~election to make the assignment is expressly shown on each of the~~
36 ~~returns of the affiliated corporations that assign and receive the~~
37 ~~credits.~~

38 ~~(r) Any unused credit may continue to be carried forward, as~~
39 ~~provided in subdivision (l), until the credit has been exhausted.~~

~~This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.~~

~~(s) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:~~

~~(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.~~

~~(B) (i) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state.~~

~~(ii) For purposes of this subparagraph, "taxpayer allowed the credit under this section" means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision without regard to any of the following:~~

~~(I) The purchase of a credit under this section pursuant to this subdivision.~~

~~(II) The assignment of a credit under this section pursuant to subdivision (q).~~

~~(III) The assignment of a credit under this section pursuant to Section 23363.~~

~~(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.~~

~~(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form~~

1 and manner agreed upon by the California Tax Credit Allocation
2 Committee and the Franchise Tax Board, of the taxpayers that
3 have sold or purchased a credit pursuant to this subdivision.

4 (3) (A) A credit may be sold pursuant to this subdivision to
5 more than one unrelated party.

6 (B) (i) Except as provided in clause (ii), a credit shall not be
7 resold by the unrelated party to another taxpayer or other party.

8 (ii) All or any portion of any credit allowed under this section
9 may be resold once by an original purchaser to one or more
10 unrelated parties, subject to all of the requirements of this
11 subdivision.

12 (4) Notwithstanding any other provision of law, the taxpayer
13 that originally received the credit that is sold pursuant to paragraph
14 (1) shall remain solely liable for all obligations and liabilities
15 imposed on the taxpayer by this section with respect to the credit,
16 none of which shall apply to any party to whom the credit has been
17 sold or subsequently transferred. Parties who purchase credits
18 pursuant to paragraph (1) shall be entitled to utilize the purchased
19 credits in the same manner in which the taxpayer that originally
20 received the credit could utilize them.

21 (5) A taxpayer shall not sell a credit allowed by this section if
22 the taxpayer was allowed the credit on any tax return of the
23 taxpayer.

24 (6) Notwithstanding paragraph (1), the taxpayer, with the
25 approval of the Executive Director of the California Tax Credit
26 Allocation Committee, may rescind the election to sell all or any
27 portion of the credit allowed under this section if the consideration
28 for the credit falls below 80 percent of the amount of the credit
29 after the California Tax Credit Allocation Committee reservation.

30 (t) The California Tax Credit Allocation Committee may
31 prescribe rules, guidelines, or procedures necessary or appropriate
32 to carry out the purposes of this section, including any guidelines
33 regarding the allocation of the credit allowed under this section.
34 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
35 3 of Title 2 of the Government Code shall not apply to any rule,
36 guideline, or procedure prescribed by the California Tax Credit
37 Allocation Committee pursuant to this section.

38 (u) The amendments to this section made by Chapter 1222 of
39 the Statutes of 1993 shall apply only to taxable years beginning
40 on or after January 1, 1994, except that paragraph (1) of subdivision

1 (q), as amended, shall apply to taxable years beginning on or after
2 January 1, 1993.

3 ~~SEC. 4. The California Tax Credit Allocation Committee shall~~
4 ~~enter into an agreement with the Franchise Tax Board to pay any~~
5 ~~costs incurred by the Franchise Tax Board in the administration~~
6 ~~of subdivision (o) of Section 12206, subdivision (r) of Section~~
7 ~~17058, and subdivision (s) of Section 23610.5 of the Revenue and~~
8 ~~Taxation Code.~~

9 ~~SEC. 5. This act provides for a tax levy within the meaning of~~
10 ~~Article IV of the Constitution and shall go into immediate effect.~~